HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 492 of 2001
(Old No. 3894/1987)

1. Purshottam Das S/o Khushi Ram
2. Ram Autar S/o Khushi Ram
3. Narendra Kumar S/o Khushi Ram
4. Smt. Meenakshi
5. M/s Sheo Narain Mal Ram Autar ….Petitioners

Vs.

State of U.P. ….Respondent

Hon'ble Irshad Hussain, J.

Heard Sri Ramji Srivastava learned counsel for the petitioners and Sri A. Rab learned Addl. G.A. and perused the record.

By means of this petition under section 482 of the Code of Criminal Procedure (for short 'Code'), the petitioners have prayed that the proceedings against them in criminal case no. 224-A of 1986 under section 7/16 Prevention of Food Adulteration Act pending in the court of CJM, Pauri District, Pauri Garhwal be quashed.

On 4.8.1980 the Food Inspector took sample of *Arhar Dal* from the shop of M/s Kishan Lal Chotelal. Nanak Chand was the proprietor of the said shop. It was found adulterated and after trial he had been convicted on 12.2.1986 in case no.931/1983. The convict-Nanak Chand is alleged to have disclosed that *Arhar Dal* was purchased by him for retail sale from the supplier, namely, M/s Sheo Narain Mal Ram Autar. The learned Magistrate wanted to prosecute the said supplier and for this purpose the Food Inspector was required to furnish the addresses of the proprietor of the said supplier firm. Before the name & addresses could be supplied, the conviction against the above named retail seller was recorded as stated above. Later on, a separate case numbered as 224-A of 1986 was registered to prosecute the supplier of the *Arhar Dal*. From perusal of the record in which the statement of the victim-Nanak Chand has been filed as annexure-3 reveal that he had no where stated that the *Arhar Dal* was purchased against some cash receipt or cash memo. Therefore, it was difficult to show that the same *Arhar Dal* was being purchased by the Food Inspector by way of sample from Nanak Chand on 4.8.1980. Even

otherwise when there was no material on record to justify the claim made by Nanak Chand the alleged supplier could not have been prosecuted for an offence punishable under section 7/16 of Prevention of Food Adulteration Act and further the retail seller Nanak Chand having been convicted, it cannot be now taken that the *Arhar Dal* taken from him by the Food Inspector was in fact supplied to him by the firm named above. If it had been so, the supplier could have only been prosecuted alongwith the Nanak Chand and not separately as is being attempted thereto by registering a separate case against the so-called supplier of the *Arhar Dal* to Nanak Chand.

In view of above, the alleged supplier of the *Arhar Dal* could not have been so prosecuted for an offence punishable under section 7/16 of Prevention of Food Adulteration Act and the pending proceedings are nothing but abuse of the process of law. Therefore, the proceedings of the case no. 224-A of 1986 against the petitioners are liable to be quashed.

The petition is allowed and the proceedings in criminal case no. 224-A of 1986 under section 7/16 Prevention of Food Adulteration Act pending in the court of CJM, Pauri District, Pauri Garhwal, are hereby quashed.

Dated 29.5.2004 **(Irshad Hussain, J.)**
Rawat